

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CRIMINAL NO. 94-00067-BH
)	
STEVEN JONES,)	
)	
Defendant.)	

ORDER

This case is before the Court on defendant's motion (Doc. 303) for modification of his sentence pursuant to 18 U.S.C. § 3582(c)(2) and U.S.S.G. 1B1.10(c)/App. C, Amendment 505, and 28 U.S.C. § 994(o). Defendant's motion also seeks a downward departure pursuant to U.S.S.G. § 5K2.19. Defendant's original sentence was for Life. Upon consideration of the motion and all pertinent portions of the record, the Court concludes and it is therefore **ORDERED** that the motion is due to be and is hereby **DENIED**.

The November 1, 1995 amendment to the sentencing guidelines relied upon by the defendant did indeed direct retroactive application of the Drug Quantity Table (U.S.S.G. § 2D1.1 as amended November 1994) and result in a reduction in defendant's applicable *base offense level* from 42 to 38. This amendment, however, does not alter the Chapter Three Adjustments which were originally and properly applied in this case, namely weapon (+2) and role in the offense (+4). The original adjusted offense level was

therefore calculated at a level 48 but, inasmuch as the highest offense level is level 43, the guideline range corresponding to a total offense level of 43 was used to determine defendant's guideline sentence, pursuant to U.S.S.G. § 5, Part A, Commentary Application Note 2.

Although the amendment upon which defendant relies in the present motion indeed reduces defendant's applicable *base offense level* to 38, the Court must again apply the aforementioned Chapter Three Adjustments, namely weapon (+2) and role in the offense (+4), thus resulting in an amended adjusted offense level of 44. Inasmuch as the highest offense level remains a level 43, the guideline range corresponding to a total offense level of 43 must again be used to determine defendant's guideline sentence. Consequently, the corresponding guideline sentence based on a reduction of defendant's base offense level to 38 remains the same, namely Life. The Court remains satisfied that this sentence is appropriate in this case.

DONE this 19th day of July, 2006.

s/ W. B. Hand
SENIOR DISTRICT JUDGE